

No. 14-15595

(Consolidated with Nos. 13-16918, -16919, -16929, -16936, -17097, -16819, & -17028)

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

ANGEL FRALEY; PAUL WANG; JAMES H. DUVAL, a minor, by and through
James Duval, as Guardian ad Litem; WILLIAM TAIT, a minor, by and through
Russell Tait, as Guardian ad Litem; SUSAN MAINZER; LUCY FUNES;
INSTRAGRAM, LLC,
Plaintiffs-Appellees,

C.M.D.; T.A.B.; H.E.W.; B.A.W.; A.D.Y.; R.P.Y.,
Intervenor-Plaintiffs-Appellees,

SAM KAZMAN,
Objector-Appellant,

v.

FACEBOOK, Inc.,
Defendant-Appellee.

On Appeal from the United States District Court
for the Northern District of California, San Francisco
D.C. No. 3:11-cv-01726-RS

CIRCUIT RULE 3-2 REPRESENTATION STATEMENT AND
MEDIATION QUESTIONNAIRE

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UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	14-15595		
District Court/Agency Case Number(s):	3:11-cv-01726-RS		
District Court/Agency Location:	California Northern District (San Francisco)		
Case Name:	Fraley et al.	v.	Facebook Inc.
If District Court, docket entry number(s) of order(s) appealed from:	Dkt. 442; Dkt. 443		
Name of party/parties submitting this form:	Sam Kazman (appellant)		

Please briefly describe the dispute that gave rise to this lawsuit.

Plaintiffs filed a class action complaint against Facebook, Inc., alleging damages caused by its Sponsored Stories service. Dkt. 1. The parties moved for the district court to approve a settlement of the claims. Dkt. 235. Class member Sam Kazman objected. Dkt. 310. The district court's Fee Order adopted many of Kazman's objection's arguments, increasing class benefit by millions. Dkt. 360. Kazman moved for attorneys' fees and an incentive award for having filed a successful, beneficial objection that materially improved the settlement. Dkt. 363.

Briefly describe the result below and the main issues on appeal.

The court denied Kazman's motion. Dkt. 443. Kazman appealed that denial. Dkt. 445. The main issue on appeal is whether it was erroneous for the district court to deny Mr. Kazman's motion, given that his objection was adopted by the Court, materially improving class benefit, and given that the parties responded to the objection by increasing the benefit to the class. The district court misapplied relevant binding Ninth Circuit precedent.

Describe any proceedings remaining below or any related proceedings in other tribunals.

No proceedings remain below: the case was terminated on August 28, 2013. Related proceedings 13-16819, 13-16918, 13-16919, 13-16929, 13-16936, 13-17097, & 13-17028 have been consolidated before the Ninth Circuit Court of Appeals. Appellants in those proceedings have submitted opening briefs, and appellees are due to submit response briefs. If those appeals are successful, this appeal will be moot.

Provide any other thoughts you would like to bring to the attention of the mediator.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached

☒ (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list

☒ may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

Representation Statement and Mediation Questionnaire

As required by the Mediation Questionnaire, objector-appellant Sam Kazman attaches this Representation Statement to his Mediation Questionnaire, identifying all parties in the service list of this action, including Sam Kazman, along with the names, addresses, telephone numbers, fax numbers (where available) and email addresses of their respective counsel. Kazman also satisfied the Representation Statement requirement of Circuit Rule 3-2 contemporaneously with his notice of appeal.

Kazman further states that C.M.D.; T.A.B.; H.E.W.; B.A.W.; A.D.Y.; R.P.Y.; and Facebook, Inc., should not be designated as appellees.

Circuit Rule 3-2 Representation Statement	
Party	Counsel
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Proof of Service

I hereby certify that on April 3, 2014, I electronically filed the foregoing with the Clerk of the United States Court of Appeals for the Ninth Circuit using the CM/ECF system, which will provide notification of such filing to all who are ECF-registered filers.

Executed on April 3, 2014.

/s/ Theodore H. Frank

Theodore H. Frank

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